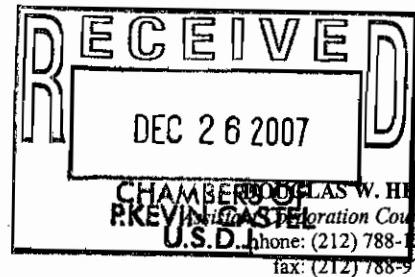


USDS SDNY	
DOCUMENT	
ELECTRONICALLY FILED	
DOC #:	
DATE FILED: <u>12/26/07</u>	THE CITY OF NEW YORK
MICHAEL A. CARDODOZ Corporation Counsel	LAW DEPARTMENT 100 CHURCH STREET NEW YORK, NY 10007



MEMO ENDORSED

December 21, 2007

BY HAND

Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

To repond to complaint
extended for all defendants until
January 31, 2008. Conference
scheduled for January 4 is
adjourned to
Feb 8, 2008 at
2:00 p.m.

Re: Garnett Small v. City of New York, et al., 07 Civ. 9631 (PKC)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, assigned to the above-referenced case representing defendants City of New York ("City") and New York City Police Department Commissioner Raymond Kelly ("Kelly"). I write with respect to the above-referenced matter in which plaintiff alleges that defendants falsely arrested and maliciously prosecuted him. The Court previously granted defendants an adjournment of the Initial Conference in this matter until January 4, 2008. Defendants write to request (1) an extension of time to answer or otherwise respond to the complaint from December 31, 2007, until January 31, 2007; and (2) a second adjournment of the Initial Conference until issue has been joined.¹ Plaintiffs' counsel consents to both of these requests.

The reason for this request is that defendants City and Kelly are not yet in possession of plaintiff's criminal court files. According to plaintiff, all of the criminal charges brought against him were allegedly dismissed and thus, all records concerning plaintiff's case have been sealed pursuant to New York Criminal Procedure Law § 160.50. Plaintiff provided

¹ Without making any representations on their behalf as to the adequacy of service or otherwise, defendants City and NYPD respectfully request the same extension of time to answer or otherwise respond for individual defendants Officer Ortiz and Inspector Barrere in this matter.

*S. O. ORDERED -
JMS/CW/JSDT
12-26-07*

this office with an executed release to access his criminal court files, and we have submitted that release to Kings County Criminal Court. To date, we have not received the relevant files. A review of the criminal court files is essential to the evaluation of plaintiff's false arrest and malicious prosecution claims before answering the complaint. Similarly, without the criminal court documents, defendants would not be adequately prepared to intelligently discuss discovery, settlement, or other relevant issues at the January 4, 2008 Initial Conference, or intelligently provide our portion of the joint letter required by Your Honor's Individual Rules.

Accordingly, defendants respectfully request (1) that their time to respond to the complaint be enlarged from December 31, 2007 until January 31, 2008, and (2) that the January 4, 2008 Initial Conference be adjourned until a date and time convenient to the Court after issue has been joined.

Thank you for your consideration herein.

Respectfully submitted,



Douglas W. Heim (DH 5238)
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Cynthia Conti-Cook, Esq. (by fax)
Stoll, Glickman & Bellina, LLP
71 Nevins Street
Brooklyn, NY 11217
Fax: (718)-852-3586